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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

REX LAKE,

Plaintiff,

v.

KILOLO KIJAKAZI,  
Acting Commissioner of Social Security,

Defendant.<sup>1</sup>

No. 2:21-cv-01089-EJY

**UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO FILE CROSS-MOTION TO  
AFFIRM AND RESPONSE TO  
PLAINTIFF’S MOTION FOR REVERSAL  
AND/OR REMAND**

***(FIRST REQUEST)***

Defendant, the Commissioner of Social Security (the “Commissioner”), through the undersigned counsel, hereby requests an extension of time to file her Cross-Motion to Affirm and Response to Plaintiff’s Motion for Reversal and/or Remand in this case. In support of this request, the Commissioner respectfully states as follows:

1. Primary responsibility for handling this case has been delegated to the Office of the Regional Chief Counsel, Region IX, in San Francisco, California (the “Region IX Office”).

<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

2. Defendant's response to Plaintiff's opening brief is currently due December 15, 2021. Defendant has not previously requested an extension of time for this deadline.

3. The Region IX Office currently handles all district and circuit court litigation involving the Social Security program arising in Arizona, California, Hawai'i, Nevada, and Guam.

4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively handling civil litigation involving the Social Security program in the eight assigned jurisdictions. Most of the attorneys who handle program litigation cases have additional responsibilities, such as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the work product of junior attorneys, conducting trainings, and participating in national workgroups. In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-assigned cases into their existing caseloads.

5. As of November 15, 2021, the Region IX Office has 365 district court briefs due in the next sixty days in the jurisdictions it handles; at least 285 of these are due in the next thirty days.

6. In addition to "program" litigation, the Region IX Office provides a full range of legal services as counsel for the Social Security Administration, in a region that covers four states (including the most populous state in the nation) and three territories. These other workloads include employment litigation; civil rights investigations; bankruptcy matters; and requests for legal advice on wide-ranging topics, including Regional office client requests for advice on program issues, employee conduct and performance, reasonable accommodation, hostile work environment, ethics, Privacy Act and disclosure, and torts. Because of the high volume of program litigation cases, the Region IX Office has had to focus its efforts on processing only other workloads that are subject to statutory, regulatory, and court deadlines.

7. In good faith and for good cause, the undersigned attorney "of counsel" requests this extension because she will be on medical leave for surgery starting early next week and she will be off work for at least two weeks and will be unable to complete briefing by the current

1 date.

2 8. Due to the volume of the overall workload within the Region IX Office, neither the  
3 undersigned attorneys nor another attorney in the Region IX Office anticipate being able to  
4 complete briefing by the current due date of December 15, 2021. Therefore, Defendant seeks an  
5 extension of 45 days, until January 29, 2022, to respond to Plaintiff's Motion for Reversal and/or  
6 Remand.

7 9. This request is made in good faith and is not intended to delay the proceedings in  
8 this matter.

9 9. On December 10, 2021, counsel for Defendant conferred with Plaintiff's counsel,  
10 who has no opposition to this motion.

11 WHEREFORE, Defendant requests until January 29, 2022, to respond to Plaintiff's  
12 Motion for Reversal and/or Remand.

13 Dated: December 11, 2021


Respectfully submitted,

14 CHRISTOPHER CHIOU  
15 Acting United States Attorney

16 /s/ Daniel P. Talbert  
17 DANIEL P. TALBERT  
18 Special Assistant United States Attorney  
19 Social Security Administration

20 KRYSTLE S. MCMULLAN  
21 Assistant Regional Counsel  
22 Of Counsel

23 IT IS SO ORDERED:

24   
25 HON. ELAYNA J. YOUCHAH  
26 UNITED STATES MAGISTRATE JUDGE

27 DATED: December 13, 2021